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DISTRICT OF UTAH

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,	:	1:02-CR-58C
	:	
Plaintiff,	:	GOVERNMENT'S RESPONSE TO
	:	DEFENDANT'S MOTION TO
vs.	:	COMPEL DISCOVERY
	:	
FABIAN LOPEZ-OCHOA,	:	
	:	Judge Tena Campbell
Defendant.	:	
	:	

The United States of America, by and through the undersigned Assistant United States Attorney, hereby provides the following information to the defense regarding expert testimony the government may introduce in its rebuttal during the *Daubert* evidentiary hearing scheduled for November 14, 2003. This information is intended to provide the defense with the information requested, but is not intended to encompass all matters or topics of testimony which may arise.

1. John Casale: Mr. Casale is the lead chemist for the Drug Enforcement Administration's (DEA) Cocaine Signature Program and is currently employed as a Senior Research Chemist for the DEA's

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Special Testing and Research Laboratory in Dulles, Virginia. Mr. Casale's testimony is expected to rebut that offered by defense expert Dr. Dennis Crouch. Specifically, Mr. Casale is expected to testify that in his opinion, the experiment conducted by Dr. Crouch was not scientifically reliable. He is also expected to testify that Dr. Crouch's opinion that cocaine has no characteristic odor is incorrect based on Mr. Casale's training and experience, as well as other scientific testing and publications which recognize that cocaine in fact has a characteristic odor. Mr. Casale's curriculum vitae is attached hereto as Exhibit A. Copies of three scientific articles relied upon by Mr. Casale relating to the odor of cocaine are attached hereto as Exhibit B. A copy of United States Patent abstract 4,260,517 by Warren J. Woodford, in which the method for reproducing the odor of street cocaine using non-controlled substances, is attached hereto as Exhibit C.

2. Jennifer McNair: Ms. McNair is the supervising criminalist at the Utah State Crime Laboratory. Ms. McNair has a bachelor of science degree in chemistry from the University of Utah and is responsible for the supervision of the chemistry section at the central, southern and eastern state laboratories. She has extensive training and experience in the identification of controlled substances. Ms. McNair will testify that in her training and experience, cocaine hydrochloride has a distinctive,

characteristic odor which she recognizes. Ms. McNair will also testify that she retested the cocaine evidence in this matter after it had been subjected to Dr. Crouch's experiment, and that she noticed that the evidence smelled of the odor she associates with cocaine hydrochloride.¹ Ms. McNair is also expected to offer testimony regarding the smell associated with cocaine hydrochloride by individuals in her office who have little experience with street cocaine or cocaine hydrochloride. Ms. McNair's curriculum vitae is attached hereto as Exhibit D.

3. Jeffery R. Bryan: Bryan is a special agent with the DEA with 13 years experience. Agent Bryan was assigned to Sao Paulo, Brazil from 1998-2002, where he investigated high level drug trafficking, particularly cocaine, throughout Brazil and other South American countries. Agent Bryan will testify regarding his hands on experience with cocaine and that in his experience, illicit cocaine has a characteristic odor. Agent Bryan's curriculum vitae is attached hereto as Exhibit E.

4. Troy Gielish: Gielish is a detective with the Irvine, California police department who has been assigned to the DEA Task Force in Santa Ana, California, for the past four years. As part of his duties, Detective Gielish teaches courses on drug

¹ At the time the government requested the Daubert hearing, the government had not intended to introduce any evidence regarding the cocaine seized in this case. However, when the cocaine was retested, Ms. McNair reported that the exhibit had a distinct odor which she associates with cocaine hydrochloride. Her testimony on that point, therefore, is highly relevant to the issues before the Court.

identification to law enforcement officers. He is expected to testify that in his courses, he routinely instructs officers and agents on the identification of street cocaine by its odor. A statement by Detective Gielish is attached hereto as Exhibit F.

5. Kenneth Wallentine: Mr. Wallentine is the Administrative Counsel for Utah Peace Officer Standards and Training Division of the Utah Department of Public Safety. A former police officer and K9 handler, Mr. Wallentine is a member of the United States Police Canine Association, the North American Police Working Dog Association and American Society of Law Enforcement Trainers. He is a Legal Instructor for the International Police Canine Conference, having trained officers in all regions of the country on police canine issues. Mr. Wallentine is expected to testify that drug detector dogs are trained to smell and identify the odor of cocaine and are able to do so because cocaine has a characteristic odor. Mr. Wallentine will also testify that in his experience as a police officer, K9 handler and instructor, he is able to identify cocaine by its characteristic odor. Mr. Wallentine's curriculum vitae and statement are attached hereto as Exhibit G.

DATED this 4th day of November, 2003.

PAUL M. WARNER
United States Attorney

Veda M. Travis

VEDA M. TRAVIS
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing RESPONSE was made available to all parties named below, this 4th day of November, 2003.

Benjamin Hamilton
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Exhibits/
Attachments
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have **not** been
scanned.

Please see the
case file.